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IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN
AT JAIPUR BENCH, JAIPUR

O R D E R

S.B. CRIMINAL REVISION PETITION NO. 256/2001
MST. SANTOSH Vs. SURESH & ORS.

Date of order: 17.04.2007.

HON'BLE MR. K.S. RATHORE, J.

Mr. Pankaj Gupta for the complainant-petitioner.
Mr. Jainendra Jain, Public Prosecutor for the State.
Mr. M.K. Kaushik for the accused-respondents.

The present criminal revision petition under Section 397 r/w Section 401 Cr.P.C. is preferred by the complainant-petitioner against the order dated 20.01.2001 passed by the Additional Sessions Judge, Bandikui, District Dausa in Criminal Revision No. 9/2001, whereby the Revisional Court has set-aside the cognizance order dated 02.07.99 passed by the Judicial Magistrate, Mahuwa in Criminal Case No. 470/99, by which cognizance of offence under Sections 323 IPC was taken against the accused-respondents by the trial Court.

I have heard rival submissions of the respective parties and have also gone through the orders passed by the trial Court and the Revisional Court and carefully perused the relevant record.

The Revisional Court has quashed and set-aside the cognizance order dated 02.07.99 passed by the trial

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Court only on the ground of limitation and the Revisional Court has wrongly calculated the revision petition from the date of passing of the order of cognizance, whereas as per the law laid down by the Hon'ble Supreme Court in the case of **Bharat Damodar Kale And Another Vs. State of A.P.**, reported in (2003) 8 SCC 559, Limitation can be counted only for the filing of the complaint or initiation of the prosecution and not for taking cognizance.

Thus, in view of the ratio decided by the Hon'ble Supreme Court in the aforementioned case of **Bharat Damodar Kale and another (supra)**, the impugned order dated 20.01.2001 passed by the Revisional Court setting aside the order dated 02.07.99 passed by the trial Court on the ground of limitation, is per se illegal and contrary to the law.

Consequently, the impugned order dated 20.01.2001 passed by the Additional Sessions Judge, Bandikui, District Dausa is herewith quashed and set-aside and the order of the trial Court dated 02.07.99 is upheld.

The revision petition stands allowed accordingly.

Record be sent back forthwith.

(K.S. RATHORE), J.

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